

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

PAULINE MASON,

)

PLAINTIFF,

)

VS.

)

2:07-cv-823-JHH

NELSON BROTHERS CAFÉ, INC.,)

DEFENDANT.

)

**FINDINGS OF FACT
AND MEMORANDUM OF DECISION**

On June 21, 2007 the court entered the default (Doc. #10) of Nelson Brothers Café, Inc. The court has before it the July 13, 2007 motion (Doc. #11) of plaintiff for judgment of by default. Attached as Exhibit A to such motion is the affidavit of plaintiff. The court expressly finds:

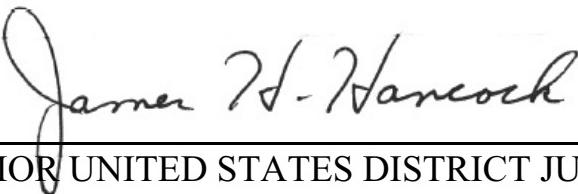
- (a) That, except where inconsistent with the affidavit of plaintiff, each of the factual allegations in the complaint (Doc. #1) is established;
- (b) that plaintiff's affidavit establishes that she was employed by defendant "from approximately June 2004 until February 2005, and again from November 2006 until February 2007" as a cook and performer of janitorial services;

- (c) that during such fifty-two (52) week period defendant was an enterprise engaged in commerce;
- (d) that during such fifty-two (52) week period, plaintiff worked an average of 60 hours per week for a total of 3,120 hours;
- (e) that 2,080 of such hours were subject to the \$5.15 minimum wage rate but defendant paid plaintiff only \$5.00 for each such hour;
- (f) that 1,040 of such hours were subject to the \$7.725 overtime rate but defendant paid plaintiff only \$5.00 for each such overtime hour;
- (g) that plaintiff is entitled to recover from defendant an additional \$.15 for each such 2,080 hours, or a total of \$312.00, and an additional \$2.725 for each such 1,040 overtime hour, or a total of \$2,834.00, for a grand total wage recovery of \$3,146.00;
- (h) that there is no evidence from which the court can conclude that plaintiff was exempt from the Fair Labor Standards Act;
- (i) that there is no evidence from which the court can conclude that the conduct of defendant in calculating and/or paying the wages due plaintiff was in good faith and that the defendant had reasonable grounds for believing that its acts or omissions were not in violation of the Fair Labor Standards Act;

- (j) that plaintiff is also due to recover from defendant the sum of \$3,146.00 as liquidated damages;
- (k) that in addition to such total recovery of \$6,292.00, plaintiff is due to recover a reasonable attorney's fee, which the court finds to be \$1,887.60, and expenses of \$350.00.

A separate final judgment in the amount of \$8,529.60 will be entered.

DONE this the 17th day of July, 2007.



James H. Hancock
SENIOR UNITED STATES DISTRICT JUDGE